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SENATE BILL 1177

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Shannon Robinson

AN ACT

RELATING TO PROCUREMENT; CLARIFYING THE DEFINITION OF "FAMILY MEMBER" FOR THE PURPOSES OF THE DISCLOSURE REQUIREMENT AND PROHIBITION OF CAMPAIGN CONTRIBUTIONS BY PROSPECTIVE CONTRACTORS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 13-1-191.1 NMSA 1978 (being Laws 2006, Chapter 81, Section 1) is amended to read:

"13-1-191.1. CAMPAIGN CONTRIBUTION DISCLOSURE AND PROHIBITION.--

A. This section applies to prospective contractors with the state or a local public body.

B. A prospective contractor subject to this section shall disclose all campaign contributions given by the prospective contractor or a family member or representative of

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1 the prospective contractor to an applicable public official of
2 the state or a local public body during the two years prior to
3 the date on which a proposal is submitted or, in the case of a
4 sole source or small purchase contract, the two years prior to
5 the date on which the contractor signs the contract, if the
6 aggregate total of contributions given by the prospective
7 contractor or a family member or representative of the
8 prospective contractor to the public official exceeds two
9 hundred fifty dollars (\$250) over the two-year period.

10 C. The disclosure shall indicate the date, the
11 amount, the nature and the purpose of the contribution. The
12 disclosure statement shall be on a form developed and made
13 available electronically by the department of finance and
14 administration to all state agencies and local public bodies.
15 The form shall be filed with the state agency or local public
16 body as part of the competitive sealed proposal, or in the case
17 of a sole source or small purchase contract, on the date on
18 which the contractor signs the contract.

19 D. A prospective contractor submitting a disclosure
20 statement pursuant to this section who has not contributed to
21 an applicable public official, whose family members have not
22 contributed to an applicable public official or whose
23 representatives have not contributed to an applicable public
24 official shall make a statement that no contribution was made.

25 E. No campaign contribution or other thing of value

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1 shall be given by a prospective contractor or a family member
2 or representative of the prospective contractor to an
3 applicable public official or the applicable public official's
4 employees during the pendency of the procurement process or
5 during the pendency of negotiations for a sole source or small
6 purchase contract.

7 F. A solicitation or proposed award for a proposed
8 contract shall be canceled or a contract that is executed is
9 void if:

10 (1) a prospective contractor fails to submit a
11 fully completed disclosure statement pursuant to this section;
12 or

13 (2) a prospective contractor or family member
14 or representative of the prospective contractor gives a
15 campaign contribution or other thing of value to an applicable
16 public official or the applicable public official's employees
17 during the pendency of the procurement process.

18 G. As used in this section:

19 (1) "applicable public official" means a
20 person elected to an office, or a person appointed to complete
21 a term of an elected office, who has the authority to award or
22 influence the award of the contract for which the prospective
23 contractor is submitting a competitive sealed proposal or who
24 has the authority to negotiate a sole source or small purchase
25 contract that may be awarded without submission of a sealed

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1 competitive proposal;

2 (2) "family member" means a spouse, father,
3 mother, child, father-in-law, mother-in-law, daughter-in-law or
4 son-in-law of:

5 (a) a prospective contractor, if the
6 prospective contractor is a natural person; or

7 (b) an owner of a prospective
8 contractor, if: 1) the prospective contractor is not a natural
9 person; and 2) one hundred percent of the ownership interest in
10 the prospective contractor is held by less than fifteen natural
11 persons;

12 (3) "pendency of the procurement process"
13 means the time period commencing with the public notice of the
14 request for proposals and ending with the award of the contract
15 or the cancellation of the request for proposals;

16 (4) "prospective contractor" means a person
17 who is subject to the competitive sealed proposal process set
18 forth in the Procurement Code or is not required to submit a
19 competitive sealed proposal because that person qualifies for a
20 sole source or small purchase contract; and

21 (5) "representative of the prospective
22 contractor" means an officer or director of a corporation, a
23 member or manager of a limited liability corporation, a partner
24 of a partnership or a trustee of a trust of the prospective
25 contractor."

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